



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/645,073	05/13/96	YOSHIOKA	M 1046.1133/JD

STAAS & HALSEY
700 ELEVENTH STREET NW
SUITE 500
WASHINGTON DC 20001

PM82/0117

EXAMINER

GREGORY, B

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 01/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/645,073

Applicant(s)
Makoto Yoshioka et al

Examiner
Bernarr Earl Gregory

Group Art Unit
3662



☒ Responsive to communication(s) filed on 30 October 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-25 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3662

In the remarks with Amendment K, Applicants have argued as to the period being stored on the content medium and as to the existence of an expiration date for the content.

In response, it is pointed out, using independent claim 1 as exemplary, that each of the claimed parts of claim 1 are present at least at the headend of the CATV system that offers pay-per-view programs. One can take the entire server (i.e., the storage at the server, not the controller) at the headend as the content medium. The server is inherently associated with a controller programmed as to when programs are to be served and for how long. If a movie lasts for two hours, the server ceases transmission of the movie after the two-hour period has expired. The claim 1 "present time data generator ..." and "comparator ..." merely make a structure where the period is judged from the server's clock to control the server as to when to transmit the movie and when to cease transmission. For example, if a movie is ordered that is scheduled for the period from 7:00 PM until 9:00 PM, the server compares the present time with the 7:00 PM time until the two times match, and then, starts transmission of the movie. When the period of the movie (here, for example, two hours) has expired, the time of the server clock will read 9:00 PM, and the comparison will indicate that the serving time for the movie has expired. A "single medium" (e.g., claim 2) is read broadly as the entire server. For example, a hard drive on a typical computer is considered generally as a single medium, but it is made up of a stack of disks that are working together to store data.

Art Unit: 3662

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by McMullan, Jr. et al ('086) or McMullan, Jr. et al ('690).

It is noted that McMullan, Jr. et al ('086) is a divisional application of McMullan, Jr. et al ('690), so they are treated together in this rejection.

For the purposes of this rejection, claims 1-3 are used as exemplary.

Considering independent claim 1, each of the applied references shows a CATV system with impulse pay-per-view, where the distributed programs are scrambled. The "content medium" is read on at least all of the headend structure that stores the program and program-related data relating to showing times, which would include the order processing circuitry in each of the references. When a program is ordered, the order locks in an authorization of viewing a scrambled, transmitted program for a particular time interval. The claim 1 "period reader ..." reads on the structure at the headend that reads the stored data regarding the delivery time of the pay-per-view showing. Typically, these showings are scheduled well in advance and are printed in a program guide for customers. As for the claim 1 "present time data generator ...", inherently each of the applied references would have a time generator as part of the computer controlling the transmission of ordered pay-per-view showings, so that the showing starts at the scheduled

Art Unit: 3662

starting time and is cut off at the scheduled ending time. As for the claim 1 “comparator ...”, this is inherent in each of the applied references in that the computer at the headend must decide when the starting time for a pay-per-view program has arrived and when the ending time has arrived, when the showing is cut off. The claim 1 “server ...” is clearly just the part of the headend dealing with program delivery. In McMullan, Jr. et al (‘086), please note the mention of IPPV (impulse pay-per-view) at column 10, lines 3-35. In McMullan, Jr. et al (‘690), please note the mention of IPPV at column 8, line 44 through column 9, line 34.

With respect to dependent claim 2, the further limitations of this dependent claim are fully met by each of the applied references in that each pay-per-view program and its showing schedule are inherently stored at the headend.

With respect to the further limitations of dependent claim 3, these are full-met by the inherent transmission of the decryption key to the CATV terminal at the customer’s location. Specifically, claim 3 reads on the sending of the signal to read out the decryption key for transmission to the customer. Please note item 313 in Figure 3 of each of the applied references. This is the scrambler, so there must be a descrambler at the CATV terminal at the customer’s location. Such a CATV terminal for scrambled pay-per-view always has a key downloaded for descrambling of the ordered pay-per-view program.

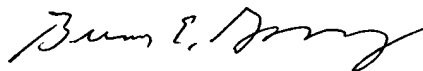
The remarks with respect to claims 4-25 are substantially those given with respect to claims 1-3 hereinabove.

Art Unit: 3662

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr Gregory whose telephone number is (703) 306-5765. The Art Unit FAX number is (703) 306-4195.



Bernarr E. Gregory
Primary Examiner
Art Unit 3662

beg
January 11, 2001